

Bruce Kim

The state Office of Consumer Protection director is ever vigilant to prevent consumer abuse

By Mark Coleman

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Bruce Kim signed on as executive director of the state Office of Consumer Protection in July 2011 and it's been a wild ride ever since.

From the mortgage foreclosure crisis ascendant when he first took the post to the current worries about the data breach at Target stores nationwide that could have affected as many as 121,000 Hawaii shoppers, Kim has been applying his legal background and the resources of his office to make sure consumers are not abused.

He works with a staff of 16, including four enforcement attorneys and five investigators, to make sure a long list of state consumer protection statutes are observed. His office also serves as a clearinghouse for consumer complaints, he said, and "we have an education mandate as well, to go out and educate consumers about consumer protection issues, of which there are a number."

Kim joined the state office after working in private legal practice, starting in 1978. He grew up in Hawaii, graduating from Punahou School, and attended college on the mainland, where he earned a bachelor's degree in history from Wittenberg University in Springfield, Ohio, and a law degree from Seattle University.

A main reason he attended Wittenberg, he said, was because it had a soccer team; at Punahou, he had been a member of the school's senior team that won the state's first ILH soccer championship.

After Wittenberg and before law school, Kim served with the Peace Corps in South Korea, teaching English as a second language. Ethnically Korean himself, Kim noted the irony of an American Korean going to Korea to teach English, especially since he did not grow up learning Korean in his own household.

After law school, he returned to Hawaii to join the law firm of his father, Edward Kim, who he considered an inspiring role model. Upon his father's death in the late '90s, he started his own firm, continuing his focus on personal injury, employment, family, real estate, commercial and landlord-tenant cases.

Kim, 63, is married to the former Katherine Hiratani, with whom he lives in Kaimuki. They have three daughters.

QUESTION: You've been in the news lately in relation to that credit card scam, the second-largest one in the country ever, affecting millions of Target customers nationwide. How is it that your office got involved and what specifically have you been able to do about it?

ANSWER: Well, let me start with how we get involved in those security-breach cases.

There's a line of statutes that the Office of Consumer Protection has enforcement authority over. The one in particular dealing with security breaches of personal information, that's the one that involves this Target situation.

That statute requires that if there are more than 1,000 Hawaii consumers in the breach, the business or government has to notify our office in writing. ... So we collect reports from business entities letting us know that there's been a security breach and they believe more than a thousand Hawaii consumers have been affected. After that, we try to follow up and keep track of these things because we want to make sure that the companies have provided appropriate notice to the affected consumers.

In the case of the Target breach, we're in communication with Target officials and their lawyers, and we're just monitoring the situation as it develops.

Q: No consumers have come forth to you though?

A: Nobody's actually filed a complaint with our office, but we are trying to make sure that Target does what they're responsible for under our security-breach statutes.

Q: And essentially what is that? That the people whose security was breached shall remain harmless or what?

A: The statute doesn't go that far. It basically provides that the company or governmental agency where the breach occurred has to notify the Hawaii consumers. And it provides a laundry list of items that are supposed to be contained in the letter notifying the individual consumer of the breach. It's a pretty comprehensive statute in terms of the requirements on the business or the governmental entity, in terms of what they're supposed to be doing in response to the breach, by contacting these people and telling them, you know, this is what happened, you better watch out for what's going on.

Q: When people have their personal information stolen, aren't the credit card companies pretty much supposed to write that off -- the consumer doesn't have to pay those bogus bills?

A: Well, yeah. They gotta contact their credit card company, though, to alert them that they're concerned about it, or they saw a suspicious charge on their statement.

Q: Is this the kind of a thing where the state could step in with a class-action suit?

A: I think a number of states are interested in this from a consumer-protection standpoint. It's kind of too early to determine what they might do collectively.

Q: How did the crooks steal all that data?

A: From what I understand, it was a point-of-service issue. That's where the breach occurred. And it

occurred in all their brick-and-mortar stores throughout the United States. It's a serious breach and people need to pay attention to protect themselves.

Q: Another issue you worked on was the mortgage foreclosure crisis. You kind of walked into your job, I guess, right when that was going in 2011.

A: Yeah, that was a big challenge.

Q: And you were on that Hawaii Mortgage Foreclosure Task Force. Could you briefly describe what you perceived was the scope of that problem at that time, in 2011, and how you think it's worked out?

A: That's a big subject. Just generally, I think it's pretty well documented, in news reports and in government investigations, that when the foreclosure crisis started to implode back in 2008, there were a lot of steps attempted by government to try to mitigate the effect of that crisis upon ordinary homeowners. I think our Legislature was attempting to get a grasp on that. They passed, I think in 2011, Act 48, which was intended to institute a lot of more consumer-friendly changes to our foreclosure statute, as well as protecting the rights of the lenders to foreclose on their properties, on their loans. So it was a balancing act that they carefully tried to address.

And I think they tried to do it in a comprehensive way. The Mortgage Foreclosure Task Force was basically a legislative creation where they brought together all the stakeholders, including consumer advocates, to address a lot of the issues that were coming out of the foreclosure crisis.

Q: Do you think the result gave an unfair advantage to homeowners over the lenders? How do you think it turned out?

A: Well, you know, that's not for me to judge. I just think there were a number of changes to our foreclosure statute that resulted in greater protections for homeowners. And I think those concerns, in terms of things like the difficulty (of borrowers) in communicating with their servicers -- the people who actually administer and collect the money on their mortgages and foreclose on people -- it attempted to address a lot of those concerns, and I leave it to somebody else to judge.

Q: The rate of foreclosures has been going down, right?

A: From the reports that we've seen, it has been trending down.

Q: Is that because of this law?

A: In 2011 and again in 2012 the Legislature passed legislation that made changes to our foreclosure statute. I think some of those changes did slow down the rate of foreclosure, while the interested parties adjusted to these legislative initiatives. And I think after a period of time, when they figured out how this was supposed to work -- because these were pretty complicated issues that they were wrangling with -- foreclosures trended back up again.

I can't speculate on why the foreclosure amount is trending down now; that would be based on information that I'm not privy to.

Q: Any other big problems that are on your plate?

A: Target is definitely of a lot of concern to our office. We're going to continue to monitor that issue along with other states. But another issue with respect to foreclosures is something we're still wrangling with here. This is about mortgage-rescue fraud scams.

There's actually a state statute called the Mortgage Rescue Fraud Prevention Act. Our office legislatively pursued that back in 2008 when it became obvious that as a result of the foreclosure crisis a lot of scams were going to come about, and since then we've been dealing with that problem, even up to the present. It's a really tough problem, and it's a very disturbing one as well, because the sad truth is that most of the mortgage-rescue services these people are offering could be obtained absolutely free through a HUD-certified housing counselor.

Q: Could you describe what a mortgage-rescue fraud involves?

A: Sure. In these cases that we've seen, it's individuals pretty much going through some kind of affinity fraud base. They'll go to churches, to community groups, through ethnic groups, they'll network, and they'll meet the distressed homeowner. And usually distressed homeowners are in a difficult position. They may be going through a divorce, they may have lost their jobs, ... they may be going through a catastrophic illness. ... So they're having a difficult time, and these people are making outrageous claims as to what they can do, and advising them that under those circumstances, you know, they shouldn't be talking to their lawyer, they shouldn't be talking to their lender, but what they should do is pay these people an advance fee, often times several thousand dollars, and they will help them extricate themselves from the foreclosure process. They literally say "save your house from foreclosure." ... Red flags gotta go up. But, the unfortunate thing is that a lot of people are taken in by that because they're in a really desperate situation.

Q: Are you surprised sometimes how gullible people can be?

A: Not in this day and age. There are some very sophisticated scams going on out there, that probably even you and I would have a hard time discerning whether it's legitimate. ... So even financially sophisticated individuals can fall prey to these schemes. But in the mortgage-rescue setting, it's really unfortunate because they're taking advantage of people when they're at their lowest ebb, and they basically don't know where else to turn.

Q: What's the most common kind of complaint that your office deals with?

A: We're getting way over a thousand formal consumer complaints on average a year, under our consumer protection statutes, and the landlord-tenant hotline gets over 10,000 queries a year. That's quite a few.

Q: Is there a predominant kind of complaint?

A: I think a lot of them have to do with the resolution of security deposits.

Q: And the others?

A: At least recently it appears to be a lot of Internet-driven complaints. In other words, people are soliciting

-- or phishing, spoofing, saying that you just won the lottery and that kind of stuff.

Q: Anything else you'd like to mention?

A: You know, what's impressed me since I've come over to this state job is the state employees that I work with. They're very motivated and go the extra mile to try to help the consumers that we work with. ... We have some very excellent trial attorneys who have achieved, I think, wonderful results, at least in the 2 1/2 years since I've been here. For example, last year, we participated in ... investigations with a number of states that culminated in a judgment against a debt-adjusting firm that was doing business out of Miami and soliciting Hawaii residents.

Q: What is debt adjusting?

A: Debt adjusting is something along the lines of mortgage-rescue fraud, where they're asking you to pay them money upfront before they do any debt-adjusting for you. Part of the plan is for them to open an account where you're making payments to this account and not to your creditors, so you can imagine what could happen when you're not paying your credit card anymore; you're paying it to this debt adjustor. The Legislature made that completely illegal. The only people who can do debt adjusting here in Hawaii are nonprofit credit counseling agencies and licensed attorneys.

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